



Headquarters Policy Flash

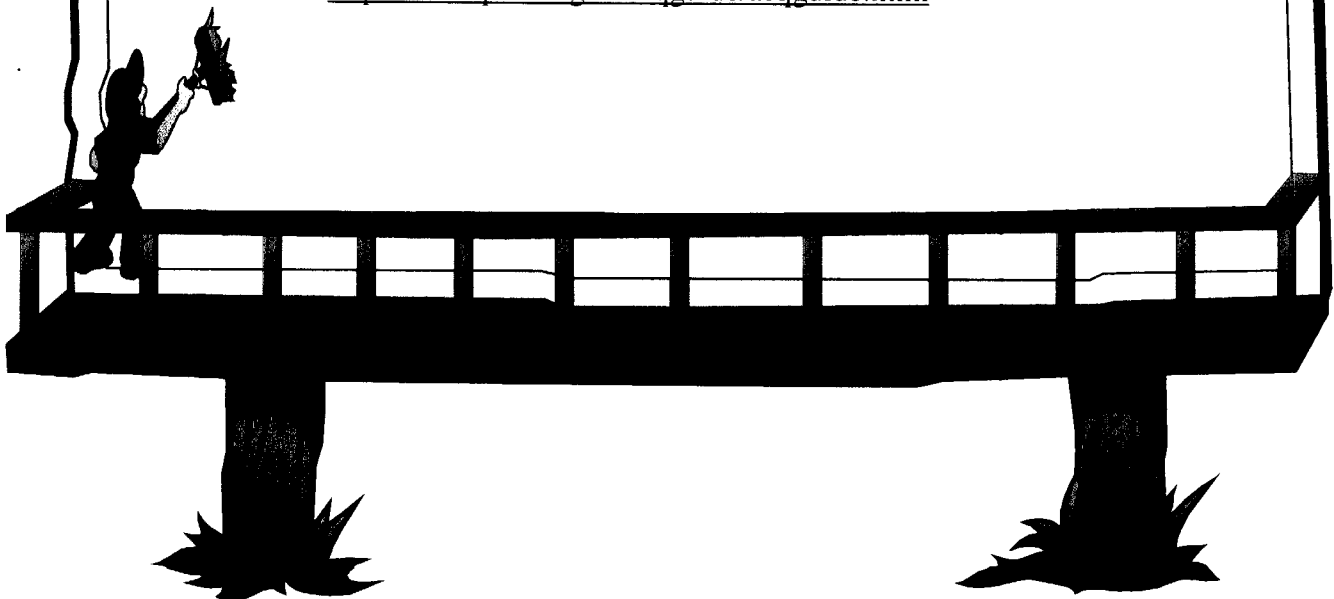
FLASH 2000-29

DATE: December 13, 2000
TO: Procurement Directors
FROM: Office of Procurement and Assistance Policy, MA-51
Office of Procurement and Assistance Management

SUBJECT: **Acquisition Guide Updates**

SUMMARY: The following two sections have been added to the DOE Acquisition Guide, which is available on our Homepage at:

<http://www.pr.doe.gov/acqguide/acqguide.html>



FLASH 2000-29
(December 13, 2000)

Chapter 3 - Antitrust Teaming Arrangements

This new Acquisition Guide chapter forwards Government-wide guidance to assist the Department's Contracting Officers in identifying whether certain contractor teaming arrangements may unduly restrict competition. Although no specific situations within the Department have been identified to date, circumstances involving anticompetitive teaming arrangements that may inhibit competition could arise in DOE acquisitions, particularly in major site/facility management acquisitions.

Recent Government-wide interest in teaming arrangements has focused on the potential for such arrangements to give rise to violations of federal antitrust statutes, as well as the impact on full and open competition in the award of Federal agency contracts. As a result, the Federal Trade Commission (FTC) and the Department of Justice (DOJ) jointly issued the publication entitled, *Antitrust Guidelines for Collaborations Among Competitors*, dated April 2000. The DOE Acquisition Guide chapter includes a link to the Internet site for the FTC/DOJ Guidelines.

Chapter 70 - Contract Options: Evaluating Contractor Past Performance

Recent Secretarial initiatives have focused on strengthening the Department's ability to sanction poor contractor performance and reward outstanding contractor performance. This new Acquisition Guide chapter results from these initiatives and discusses the linking of options for extending the term of a major operating contract with the quality of the contractor's performance.

DEAR 970.1702-1(b) requires, as part of the review identified in FAR 17.605, the contracting officer to assess whether the exercise of an option is in the Government's best interest. Other than a continuing need for the services to be performed, the contractor's performance record is the most important factor to be considered in the contracting officer's determination. In making decisions about whether or not to exercise a contract option, contracting officers are required to review a contractor's overall performance, and to consider factors relating to the contractor's technical, administrative, and cost performance.

The new Acquisition Guide chapter provides a model guideline for the Department's procurement and program personnel to use in assessing a contractor's past performance under a DOE contract for the purpose of making decisions regarding the exercise of contract options. The model provides information that contracting officers should consider when developing their review, including: advance planning issues; selection of team members; past performance information sources; methodology and approach for the review; and, review documentation.

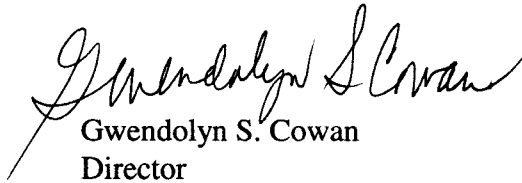
FLASH 2000-29
(December 13, 2000)

The key areas of a past performance review are identified as:

- Accomplishment of Specified Contract Performance Objectives
- Financial Business Management Performance
- Safety, Health and Environmental Performance
- Safeguards and Security Performance
- Performance under Greening the Government Initiatives
- Performance under Socio-economic programs; Diversity clause requirements; EEO compliance; and implementation of restrictions against racial profiling

The chapter suggests that these guidelines should be further tailored by each office to appropriately address site-specific issues and concerns relating to an incumbent contractor's performance history.

Any questions relating to this Flash should be directed to Kevin Smith at 202-586-8189 or via e-mail at Kevin.M.Smith@pr.doe.gov.


Gwendolyn S. Cowan
Director

cc: PPAG Members